

October 12, 2005

TO: The Honorable Mayor and City Council Members

FROM: John Szerlag, City Manager

SUBJECT: Dispatch, Lock-Up, and Animal Control Services Agreement
with the City of Clawson

Over the past several months Chief Craft and I have met with Clawson Interim City Manager Mark Pollock and Clawson Police Chief Bruce Henderlight for reason of developing a proposal whereby Troy would provide Police/Fire dispatch, lock-up, and animal control services to the City of Clawson. The attached agreement outlines the scope and costs related to providing these services, and the Clawson City Council unanimously approved our conditions contained therein. It is now submitted for your approval.

Please know that this endeavor will provide a high level of service to Troy and Clawson residents at a reduced cost to both cities. The City of Troy will not be hiring any additional personnel to provide this service, and I'm advised that no one will lose their job in Clawson.

In addition to Chief Craft, Captain Gary Mayer and Assistant City Attorney Susan Lancaster spent a lot of hours on this project and I wish to thank all of them for their efforts.

JS/mr\AGENDA ITEMS\2005\10.17.05 - Dispatch, Lock-Up and Animal Control Services Agreement with Clawson

c: Lori Bluhm, City Attorney
Charles Craft, Police Chief
Bruce Henderlight, Clawson Police Chief
Susan Lancaster, Assistant City Attorney
Gary Mayer, Captain
Mark Pollock, Clawson Interim City Manager

CITY OF TROY AND CITY OF CLAWSON LOCKUP, DISPATCH AND ANIMAL CONTROL SERVICES AGREEMENT

This Agreement is entered into between the CITY OF TROY, a Michigan Municipal Corporation, whose address is 500 W. Big Beaver Road, Troy, Michigan 48084, (hereinafter "TROY") and the CITY OF CLAWSON, a Michigan Municipal Corporation, whose address is 425 North Main Street, Clawson, Michigan 48017, (hereinafter "CLAWSON").

WHEREAS, TROY and CLAWSON are authorized separately by law to provide police, fire and animal control protection for residents of their respective cities; and

WHEREAS, TROY and CLAWSON are authorized separately to provide police and fire communications and dispatch services and the equipment, personnel and facilities for these services; and

WHEREAS, TROY and CLAWSON are authorized by law to separately to provide lockup services for the detention of individuals for criminal, warrant and other purposes; and

WHEREAS, cities may enter into agreements pursuant to the Urban Cooperation Act of 1967, MCL 124.501, et. seq., to provide interlocal use of facilities and/or services which each city has the power or authority to provide separately; and

WHEREAS, TROY has the capacity to provide lockup facilities and services and police communication and dispatch services for police, fire, ambulance, EMT and/or animal control for CLAWSON, but absent this

Agreement, is not obligated to provide any use of facilities and/or services to CLAWSON or its residents; and

WHEREAS, TROY and CLAWSON may enter into an agreement by which TROY would provide lockup facilities and police personnel and police communication and dispatch services for police, fire, ambulance, EMT and animal control services for Clawson; and

NOW, THEREFORE, based upon the foregoing statements, TROY and CLAWSON agree to the following terms, conditions, representations and acknowledgements and mutually agree as follows:

1. DEFINITIONS. For all purposes and as used throughout this Agreement, the words listed below, whether used as singular or plural, with or without quotation marks, or possessive or nonpossessive, shall be defined, read, and interpreted as follows:

A. "Animal control services" shall be defined to include, but not be limited to, the investigation of complaints and/or the rendering of assistance concerning animal nuisances, animal ordinance violations, animal welfare and other related concerns of the Clawson citizens regarding animals where a response is needed and/or expected by an animal control officer, police officer, employee or agent whose job duties may include the receipt of a dispatch call to investigate and/or render assistance. Animal control services will be provided during the regularly scheduled hours of the animal control officers. Upon request, TROY will provide CLAWSON with the monthly work

schedules of the animal control officers. Animal control service does not include random patrol.

B. "Claims" shall be defined to include any and all losses, complaints, demands for relief or damages, lawsuits, causes of action, proceedings, judgments, deficiencies, penalties and costs and expenses, including, but not limited to, any reimbursement for reasonable attorney fees, witness fees, court costs, investigation and/or litigation expenses, any amounts paid in settlement.

C. "Clawson police, fire, ambulance, EMT and animal control personnel" shall be defined to include, but not be limited to: any and all uniformed, non-uniformed, civilian, command, volunteer, administrative and/or supervisory personnel employed and/or contracted with by CLAWSON either to provide, supply, support, administer or direct any CLAWSON police or law enforcement service, fire protection, ambulance services, emergency medical or animal control services and/or any persons, acting by, through, under, or in concert with any of them; or any other CLAWSON official, officer, employee or agent whose job duties may include the receipt of any TROY police dispatch services.

D. "Troy lock up and police services" shall be defined to include, but not be limited to: the temporary housing at the Troy lockup facility of individuals detained and/or arrested for criminal acts, suspected criminal acts, warrants, contempt of court, court orders and other circumstances by the Clawson Police Department until arraignment and/or release by the 52-4 District Court

or any other court or until the relocation to another facility. Lockup services shall also include the booking and/or fingerprinting of detainees; administration of breath tests by qualified personnel and the preparation of related documentation; the feeding of detainees; arranging for transportation to a hospital or medical facility for medical treatment; the confirmation of warrants; the processing of bond money; transportation of detainees to the 52-4th District Court only, but that transportation by TROY will occur if, and only if, a Clawson police officer is unable to transport the detainee. The costs associated with medical transportation, transportation by TROY for medical treatment or medical treatment is the responsibility of CLAWSON. It is the responsibility of CLAWSON to be present and make decisions, which are in compliance with Troy Police Department Policy and Procedures regarding the treatment and/or detention of disruptive prisoners and/or detainees. It is the intent of CLAWSON and TROY to develop procedures regarding the intake and processing of detainees and the presentation of complaints and/or warrants or other documentation relating to the detainees between CLAWSON and TROY and the transfer of paper work between CLAWSON and TROY. CLAWSON shall follow Troy Police Department General Orders as set out in Paragraph 5 and, if there is a conflict between policies and procedures developed by CLAWSON and TROY pursuant to this Agreement and the General Orders, the General Orders shall take precedent. Troy agrees to discuss any changes made to a General Order affecting the terms or performance under this Agreement.

E. “Troy police dispatch services” shall be defined to include, but not be limited to: any emergency or non-emergency telephone call or notice, of any kind, which either requests, requires or, in the sole judgment of Troy Police Department, appears to request or require the presence, attention, or services of police and/or fire personnel, ambulance and/or emergency medical technician (“EMT”) or animal control officers to address, respond, or attend to any issue, event, or circumstance involving public safety, a breach of peace, public health, an accident or accidental injury, the protection of property, any emergency (including but not limited to criminal, medical, fire, health, civil disputes, civil infractions, animal control or animal welfare), which results in any communication or attempted communication between TROY and CLAWSON.

F. “Troy police, fire, ambulance, EMT and animal control personnel” shall be defined to include: any and all uniformed, non-uniformed, civilian, command, volunteer, administrative and/or supervisory personnel employed and/or contracted with by TROY either to provide, supply, support, administer or direct any TROY police or law enforcement service, fire protection, ambulance services, emergency medical or animal control services (as defined herein) and/or any persons, acting by, through, under, or in concert with any of them; or any other TROY official, officer, employee or agent whose job duties may include the dispatch of communication to CLAWSON pursuant to this Agreement

2. NO OBLIGATION TO RESPOND AND/OR ASSIST. TROY agrees that under the terms of this Agreement, except for use of lockup facilities and police personnel, animal control services, and the police dispatch services expressly contracted for herein, TROY shall not be obligated, in any way, to provide or assist CLAWSON or any Clawson police, fire, ambulance, EMT with any other direct, indirect, backup, or supplemental support or police, fire, emergency-related services or protection or animal control services, of any kind or nature whatsoever, or required to send any TROY personnel to respond, in any way, to any call for Clawson police, fire, ambulance, EMT or animal control services or assistance. CLAWSON agrees that it shall, at all times and under all circumstances, remain solely and exclusively responsible for all costs and/or liabilities associated with providing available on-duty Clawson police, fire, ambulance, EMT and animal control personnel to receive and respond to any Troy police dispatch services in a timely and professional manner. If there is a conflict between this Agreement and any mutual aid agreement already in effect at the signing of this Agreement, the mutual aid agreement shall apply.

3. INDEMNIFICATION AND HOLD HARMLESS. CLAWSON acknowledges that there may be circumstances when, despite all reasonable efforts, TROY'S attempt to communicate or provide police dispatch services for Clawson police, fire, ambulance, EMT may be unsuccessful and, as a result, Clawson's timely response to a call for Clawson police, fire, ambulance, EMT or animal control assistance may not be forthcoming. In all such circumstances, CLAWSON agrees to indemnify and hold harmless TROY from any and all resulting claims.

CLAWSON and/or Troy shall be mutually obligated to pay any portion of any court-ordered final judgment or award for which a court has determined that CLAWSON or TROY or any CLAWSON or TROY agent or employee was either solely negligent or solely at fault for any specific dollar amount of damages or loss to any person other than CLAWSON or TROY or any CLAWSON or TROY Police or FIRE Personnel.

TROY and CLAWSON agree that neither is required to indemnify nor hold the other harmless under those circumstances under which claims occur or arise or are made on the basis of the negligence, recklessness or gross misconduct of their own personnel in the performance of the terms of the Agreement, or violations of state or federal law alleged to have arisen as a result of the conduct of their own personnel.

4. LIMITATION OF REPRESENTATIONS. CLAWSON agrees that this Agreement does not, and is not intended to, include any TROY warranty, promise or guaranty, of any kind or nature whatsoever, concerning the provision of Troy police dispatch services to CLAWSON except that TROY will make a reasonable effort to provide police dispatch services for Clawson police, fire, ambulance, EMT and animal control personnel consistent with existing Troy Police Department communication and dispatching policies, procedures, orders and standards.

5. POLICIES AND PROCEDURES: The parties acknowledge that due to the number and variety of factual situations that could arise in the administration of this Agreement, that it is impossible to set out all policies, procedures, orders and

standards applicable to the services, personnel, facilities and/or services to be provided. Therefore, minimally, CLAWSON agrees to be bound by relevant policies and/or procedures set out in Troy Police Department General Order Number 5.2A, Prisoner Treatment and Lockup Operations, Date of Issue July 16, 2004, and any revisions or amendments thereto. Further, CLAWSON agrees to be bound by the relevant policies and/or procedures set out in Troy Police Department General Order Number 5.2E, Animal Control Unit – Animal Care and Control, Date of Issue October 20, 2003, and any revisions and/or amendments thereto. Recovered stray domestic animals will be temporarily housed in the Troy Police Department Animal Holding Facility in accordance with General Orders Policy and Procedures. Owners can pick up their animals at the Troy Police Department Animal Holding Facility until such time as they are transfer by Troy to either the Oakland or Macomb Animal Control facilities. Animal owners shall then be responsible for picking up their animals at those locations.

CLAWSON and TROY agree to comply with all applicable General Orders Policy & Procedures in effect in the Troy Police Department and which have been supplied to CLAWSON. TROY agrees to provide CLAWSON with any revisions and/or amendments at the same time that those revisions are distributed to department personnel. Those revisions and/or amendments will be distributed by first class mail to the following named individual and address:

_____.

CLAWSON shall give written notice to the Troy Chief of Police if a request is made to change the individual and/or address set out above.

6. TROY GENERAL ORDER AND INTERPRETATIONS. If there is a dispute between CLAWSON and TROY regarding the applicability of a Troy Police Department General Order, the Troy Police Department shift commander on duty at the time of the dispute shall make a decision as to whether the provision of a Troy Police Department General Order applies to the situation. If the Troy Police Department shift commander decides that a Troy Police Department General Order provision does apply, he shall make a decision as to how the specific situation shall be handled and convey that decision to the Clawson shift commander on duty at the Clawson Police Department.

A. Complaint Or Interpretation Resolution:

(1) TROY and CLAWSON agree to comply with Troy General Orders in the investigation of any complaint, initiated by the City of Clawson, Clawson residents, or any other citizen or outside agency relative to any action by TROY in the delivery of services as specified in this agreement. Upon completion of the investigation, TROY and CLAWSON agree to supply to each other all pertinent information, subject to the provisions of law protecting TROY employees, regarding the validity of the complaint and action taken. The parties further agree to notify each other of any complaint received by TROY or CLAWSON, related to the services provided to CLAWSON under this agreement and that are associated with the delivery of these services to CLAWSON.

(2). If there is a dispute between TROY and CLAWSON that is not covered by a Troy General Order that requires an immediate decision, the TROY Shift Commander and the CLAWSON Shift Commander on duty at the time shall

mutually agree to an immediate resolution. The Troy Police Chief and the Clawson Police Chief shall mutually resolve the dispute and agree upon the policy for future similar situations.

7. DISPATCH EQUIPMENT. CLAWSON agrees that under the terms of this Agreement, CLAWSON shall be solely and exclusively responsible for all costs, expenses and liabilities associated with the purchase, lease, operation, and/or use of any Clawson police, fire, ambulance, or EMT radio or other communication equipment, and TROY shall not be obligated to provide any Clawson personnel with any radio or other communication equipment of any kind. Similarly, TROY agrees that CLAWSON shall not be obligated under the terms of this Agreement to supply or provide TROY with telephones, telephone lines, radios and other communications equipment or property. Notwithstanding the above, TROY agrees that CLAWSON is not required to purchase any equipment not mandated by the requirements of Oakland County. However, nothing in this Agreement shall prevent TROY from updating, adding to, removing, replacing, changing and/or eliminating its equipment and/or dispatch system or any aspect of its equipment and/or dispatch system. Each party shall be responsible for its own costs for any changes, removal of and addition to its equipment under any and all circumstances.

8. COMPATIBILITY OF CLAWSON AND TROY DISPATCH EQUIPMENT. CLAWSON agrees that this Agreement does not, and is not intended to, obligate or require TROY to change, alter, modify, or develop any different dispatch related codes, policies, practices or procedures; purchase or use any special or

additional equipment; or, alternatively, prohibit TROY from implementing any future communication-related changes that TROY believes to be necessary in performing the terms of this Agreement. However, there are specific communication systems that must be provided by CLAWSON to make police dispatch services effective. CLAWSON shall be required to enter into the interoperable 800 MHZ radio system agreement with Oakland County, which is being entered into between TROY and Oakland County. CLAWSON and TROY shall enter into that radio system agreement prior to the signing of this Agreement. Further, if TROY discovers or determines that it is necessary to update any equipment that is not compatible with the radio communication equipment of CLAWSON, TROY shall notify CLAWSON immediately upon making such determination. TROY will provide CLAWSON a reasonable opportunity to make the necessary changes and if CLAWSON is unwilling and/or unable to obtain the necessary equipment designated by TROY, TROY or CLAWSON shall be allowed to cancel this Agreement pursuant to the cancellation process.

9. CLAWSON'S RESPONSIBILITIES AND GUARANTEES: CLAWSON agrees that it shall be solely and exclusively responsible, during the term of this Agreement, for guaranteeing that (a) all Clawson police, fire, ambulance and/or EMT radios and/or other communication equipment will be properly set and adjusted to receive any Troy police dispatch services and otherwise maintained in full and proper working order; (b) all CLAWSON police, fire, ambulance, EMT and/or animal control officers personnel will be adequately trained and will

comply with all applicable TROY communications codes, practices, policies and procedures as set out in Troy Police Department General Orders as set out in Paragraph 5, as well as any applicable county, state or federal (FCC) communications requirements; (c) CLAWSON and all Clawson police, fire, ambulance, EMT and/or animal control officers shall, at all times, promptly and properly notify the Troy communications supervisor of any on-duty or off-duty status and/or availability or unavailability of Clawson police, fire, ambulance, EMT and/or animal control personnel to receive police dispatch services from Troy; and (d) all CLAWSON police, fire, ambulance and/or EMT radio communication equipment, policies, practices and procedures shall conform to those of TROY as they now exist or may be changed in the future.

10. SUBCONTRACTING. TROY agrees this contract or agreement to provide the services identified may not be transferred and no individual service or obligation provided under this agreement can be subcontracted or transferred to another agency or entity or provider.

11. CANCELLATION. Subject to Paragraph 12, this Agreement shall become effective on the date of the last signature hereon and immediately forwarded to the Secretary of State for filing, and shall remain in effect continuously until it is cancelled by either party. Either CLAWSON or TROY may cancel this Agreement, for any reason (including the convenience of any party), and without any penalty, by delivering a written notice of cancellation of this Agreement to the Chief of Police of the other party's police department. Such written notice shall provide at least a ninety (90) calendar days notice of the effective date of

cancellation, and such cancellation of this Agreement shall be effective at 11:59 P.M. on the last calendar day of the calendar month following the expiration of the 90 calendar day notice period. There are 3 different services for fees established by this Agreement: 1. lockup facility and police services, 2. police dispatch services for police, fire, ambulance and EMT, and 3. services for animal control officers. Therefore, CLAWSON or TROY may cancel one of the services for fee of this Agreement with the intention that the remaining services for fee shall remain in effect. For example, CLAWSON may cancel service for animal control officers but retain the service for fee for lockup facility and police personnel services and police dispatch of police, fire, ambulance and EMT. The notice requirements of this Paragraph shall apply to a cancellation of one of the services for fee under this Agreement.

12. NECESSITY OF CITY COUNCIL RESOLUTIONS: This Agreement, and any subsequent amendments, shall not become effective prior to the approval by resolutions of the City Councils of CLAWSON and TROY. The approval and terms of this Agreement shall be entered into the official minutes and proceedings of the City Councils of CLAWSON AND TROY and shall also be filed with the Clerk of each City. In addition, this Agreement, and any subsequent amendments, shall be filed with the Oakland County Sheriff's Department, Oakland County Board of Commissioners, Clerk for Oakland County, and the Secretary of State for the State of Michigan.

CLAWSON shall take any necessary actions either by Resolutions of Council and/or amendment of its Ordinance to insure that TROY's animal control

officers have jurisdiction and/or authority to perform animal control services in and on behalf of CLAWSON.

13. START-UP DATE. All services under this Agreement shall begin in effect on November 6, 2005 (start-up date). If the start-up date is delayed due to circumstances beyond the reasonable control of Troy or Clawson, such as technical difficulties, lack of availability of sufficient staff to do an adequate start-up or other unanticipated events, i.e., but not limited to, labor strikes, natural disasters or weather events, events of force majeure, or terrorist activities, the parties will mutually agree upon a new start-up date and Troy will adjust the monthly installment payment on a pro-rated basis. If the start-up date occurs on a day other than the 1st day of the month, than the anniversary date as referenced in Paragraphs 14 and 15 of this Agreement, shall be 12 months from the 1st day of the month of the first full month of service. By way of example, if the start-up date is November 6, 2005, the first anniversary date for this Agreement will be December 1, 2006.

14 . FEES FOR SERVICES. In consideration of TROY'S promises and efforts under this Agreement , CLAWSON agrees to pay the following fees:

Lockup Services: CLAWSON shall pay an annual rate of \$86,600 for those services. The first payment for November 2005 is prorated to a monthly fee of \$6,013.89 and shall be paid by November 6, 2005. Thereafter, payments shall be made in monthly installments of \$7,216.67 to be paid by the first day of each month beginning December 1, 2005.

Dispatch Services. CLAWSON shall pay an annual rate as follows: \$89,800 for police dispatch services for police, fire, ambulance and EMT. The first payment for November 2005 is prorated to a monthly fee of \$ 6,236.12 and shall be paid by November 6, 2005. Thereafter, payments shall be made in monthly installments of \$7,483.34 to be paid by the first day of each month beginning December 1, 2005.

Animal Control Services: CLAWSON shall pay an annual rate as follows: \$ 15,200.00 for animal control services. The first payment for November 2005 is prorated to a monthly fee of \$ 1,055.56 and shall be paid by November 6, 2005. Thereafter, payments shall be made in monthly installments of \$ 1,266.67 to be paid by the first day of each month beginning December 1, 2005.

If animal control service is requested and an animal control officer is not on-duty, CLAWSON would be billed the call-in overtime rate for a Troy Animal Control Officer with a three (3) hour minimum, however, pursuant to Troy Police Department policy, animal control officers are not ordered in for such requests. CLAWSON shall pay for all housing and destruction fees incurred if a domestic animal or non-domestic animal is transported to either the Oakland or Macomb County Animal Control facility. CLAWSON will pay for the destruction costs of dead animals recovered in Clawson. CLAWSON will provide for the distribution of animal traps and the recovery of such traps if no animal is captured.

- A. All monthly payments shall be due and payable by CLAWSON without any further notice or demand from TROY.
- B. Each monthly payment shall be made by check drawn on a CLAWSON account and shall be made payable to the "City of Troy" and delivered to the attention of the City of Troy Treasurer, 500 W. Big Beaver Road, Troy, Michigan 48084.
- C. Each such payment shall clearly identify that it is a monthly payment being made pursuant to this Agreement and identify the calendar month for which CLAWSON intended the payment to apply. CLAWSON agrees that TROY, in its discretion, may apply any monthly received from CLAWSON to any past due amount or monthly payment then due and owing to TROY pursuant to this Agreement.

15. ANNUAL REVIEW OF FEES. Each year, prior to the anniversary date of the Agreement, TROY shall review its personnel costs and any costs directly related to the ability of TROY to provide services under this Agreement. If those costs have increased, TROY shall notify CLAWSON in writing of the amount of and the reason for the increased costs for each service under the Agreement no later than 30 days before the anniversary date of the Agreement. Those increased costs will be assessed as fees to CLAWSON from the anniversary date of the Agreement for a one (1) year period. If CLAWSON objects to those increased fees, TROY may cancel the Agreement as set out in Paragraph 11 or

TROY and CLAWSON may agree to amend the fee increase to a different amount, which shall be effective for a one year period beginning the anniversary date of the Agreement and continuing for a one (1) year period from each anniversary date. If an amended fee is not negotiated until after the anniversary date of the Agreement, CLAWSON shall be responsible for payment of the increased fee for each month until and unless a mutual agreement amending the increase fee is reached.

TROY has determined the fee for lockup services based upon the average arrest volumes over time. Each year, TROY and CLAWSON shall evaluate the arrest volumes as determined by the number of persons incarcerated in TROY lockup facility and TROY shall adjust the cost for lockup services accordingly.

16. NO SETOFF FOR FEES. CLAWSON agrees that any and all of its payment obligations as set forth in this Agreement shall be absolute and unconditional in all events and shall not be subject to any set-off, defense counterclaim, or recoupment for any reason whatsoever.

17. INSURANCE REQUIREMENTS. CLAWSON agrees, at its sole cost and expense, to purchase and maintain the following insurance coverage(s), in the minimum coverage amounts indicated, for the entire duration of this Agreement and to provide TROY with the following Certificates of Insurance. CLAWSON acknowledges that all insurance obligations, bonds, and/or certificates or proof of same required shall be subject to the approval of TROY. CLAWSON shall name TROY as an additional insured on their policy with the Michigan Municipal Risk Management Association (MMRMA).

- A. Workers' Compensation Insurance as required by the laws of the State of Michigan with Employer Liability Coverage in the minimum amount of \$100,000.00;
- B. All Certificates of Insurance, self-insurance, or duplicate policies of any outside vendor or contractor shall contain the following clauses:
 - i. "Any coverage afforded to TROY shall apply as primary and not excess to any insurance issued in the name of CLAWSON".
 - ii. "The insurance company(s) issuing the policy or policies shall have no recourse against TROY for payment of any premiums or for assessments under any form of policy.";
 - iii. "Any and all deductibles in the above described insurance policies shall be assumed by, and be for the account of, and at the sole risk of CLAWSON; and
 - iv. "There will be no additional exclusions running to the Additional Insured based upon any actions or activities of the Named Insured."
- C. All Certificates of Insurance are to provide thirty (30) days notice of material change or cancellation. All Certificates of Insurance must be provided no less than thirty (30) working days before the commencement date of services to be

provided under this Agreement to TROY'S Risk Management Department. Insurance carriers, coverage(s), and policy limits are also subject to the approval of TROY.

18. SUBROGATION: The parties agree that they will legally conform with the requirements of this Agreement and in doing so shall be subrogated to any rights to recover or any benefits either may have under any insurance policy and to the full extent of any payment made under any insurance policy as may be required to make the recovering party whole for any claims. In this instance, the other agrees to cooperate and perform any act necessary or required to secure such rights for the prevailing or claiming party.

19. INDEMNIFICATION AND HOLD HARMLESS FOR ALL SERVICES: Except as otherwise provided in this Paragraph, CLAWSON and TROY agree to indemnify and hold each other harmless from an against any and all claims, as defined in this Agreement, which are imposed upon, incurred by, or asserted against the other party by any person and which are based upon, result from, arise from, or are in any way related to any alleged error, injury, mistake, negligent or intentional acts or omissions by TROY and/or CLAWSON and/or Troy and/or Clawson police, fire, ambulance and EMT, including but not limited to:

- A. Any and all alleged breach of any legal duty to any person and/or any Troy or Clawson police, fire, ambulance and EMT for any reason whatsoever.

- B. Any and all alleged breach of any legal duty to any person regarding an arrest, detention, booking or other lockup procedure as set out in this Agreement.
- C. Any and all alleged police, fire, ambulance and EMT's negligence or erroneous response to, or failure to respond to, any communication or police dispatch services.
- D. Any and all alleged failures to receive in a timely manner any telephone call for fire or emergency related services due to any alleged negligence.
- E. Any and all alleged failures by police, fire, ambulance and EMT to receive any transmitted police dispatch services.
- F. Any and all alleged injuries or losses to police, fire, ambulance and EMT arising out of any police dispatch services under this Agreement.
- G. Any and all alleged injuries or losses to police arising out of any use of the lockup facilities and/or police services under this Agreement.
- H. Any and all alleged failures by police, fire, ambulance and EMT to comply with any duty or obligation in this Agreement whether related to lockup facilities and/or police services or police dispatch services as set out in this Agreement.

20. PAYMENT AND SATISFACTION OF CLAIMS: The indemnification right afforded in this Agreement shall be excess and over and above any other valid and collectible insurance right available to TROY or CLAWSON and applicable to

any part of any ultimate net TROY or CLAWSON loss whether or not any such insurance coverage is stated to be primary, contributing, excess, or contingent. To the extent that any promise to indemnify, pay on behalf of, and hold harmless as set forth in this Agreement may become unenforceable or uncollectible, the indemnitor shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law toward the payment and satisfaction of any claims.

21. SURVIVAL OF CLAIMS IF CANCELLATION: The parties agree that all indemnification and hold harmless promises, waivers of liability, representations, insurance coverage obligations, liabilities, payment obligations, and/or any other related obligations provided for in this Agreement with regard to any acts, occurrences, events, transactions, or claims, either occurring or having their basis in any events or transactions that occurred before the cancellation of this Agreement or part of this Agreement, shall survive the cancellation. The parties agree that the cancellation or termination of this Agreement shall be without prejudice to any rights or claims of either party against the other and shall not relieve either party of any obligations which, by their nature, survive cancellation or termination of this Agreement.

22. INDEPENDENT CONTRACTOR: CLAWSON and TROY agree that no employees, volunteers, agents and personnel servicing this Agreement or otherwise, shall be considered or asserted to be employees of the other, and further agree, that at all times and for all purposes under the terms of this Agreement, the legal status and relationship of each party shall be that of an Independent Contractor. The parties also agree that no police, fire, ambulance

and EMT or any other employee, volunteer, agent or personnel shall, by virtue of this Agreement or otherwise, be considered or asserted to be an employee, agent, or working under the supervision and control of the other.

23. RESPONSIBILITIES TO RESPECTIVE EMPLOYEES: CLAWSON and TROY agree that, at all time and for all purposes relevant to this Agreement, CLAWSON and TROY shall each remain the sole and exclusive employer of each of their respective employees. CLAWSON and TROY each agree to remain solely and exclusively responsible for the payment of each of their respective employees' wages, compensation, overtime wages, expenses, fringe benefits, pension or retirement benefits, training expenses, or other allowances or reimbursement of any kind, including, but not limited to, workers' disability compensation, unemployment compensation, Social Security Act protections and benefits, employment taxes, or any other statutory or contractual right or benefit based, in any way, upon employment of personnel.

24. NO CHANGE TO CONDITIONS OF EMPLOYMENT: This Agreement does not, and is not intended to, create, change, modify, supplement, supercede, or otherwise affect or control, in any manner, any terms or conditions of employment of any employees of either CLAWSON or TROY, including, but not limited to, any employment and/or union contracts, any levels or amounts of supervision, any standards of performance, any sequence or manner of performance, and/or any rules regulations, training and education standards, hours of work, shift assignments, orders, policies, procedures, directives, and ethical guidelines which shall solely and exclusively govern and control the

employment relationship between each of the parties hereto and their employees.

25. NO EXERCISE OF CONTROL OVER OTHER PARTIES EMPLOYEES: The parties agree that neither shall provide, furnish or assign any of the other's employees, volunteers, agents or personnel with any job instructions, job descriptions, job specifications, or job duties, or, in any manner, attempt to control, supervise, train, or direct any of the other's employees, volunteers, agents or personnel in the performance of any duty or obligation under the term of this Agreement.

26. NOTICE OF CLAIMS: Each party agrees that it shall promptly deliver to the other written notice and copies of any claims, complaints, charges, or any other accusations or allegations of negligence or other wrongdoing, whether civil or criminal in nature, that either becomes aware of which involves, in any way, facilities, equipment, personnel and/or services under this Agreement. CLAWSON agrees to cooperate with TROY in any investigation conducted by TROY of any acts or performance of any duties by CLAWSON or TROY under this Agreement.

27. NOTICE REQUIREMENTS: Any written notice required or permitted under this Agreement shall be considered delivered to a party as of the date that such notice is deposited, with sufficient postage, with the U.S. Postal Service. Unless specifically otherwise set out in this Agreement, all writing sent to TROY shall be sent to: Chief of Police and City Attorney and all writing sent to CLAWSON shall be sent to: Chief of Police and City Attorney.

28. JURISDICTION AND INTERPRETATION: This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. The language of all parts of this Agreement is intended to and, in all cases, shall be construed as a whole, according to its fair meaning, and not construed strictly for or against any party. As used in this Agreement, the singular or plural number, possessive or nonpossessive, shall be deemed to include the other whenever the context so suggests or requires. Each party's chief of police and legal counsel have negotiated the language of this Agreement.

29. NO WAIVER OF RIGHTS OR PRIVILEGES: Absent an express written waiver, the failure of any party to pursue any right granted under this Agreement shall not be deemed a waiver of that right regarding any existing or subsequent breach or default under this Agreement. No failure or delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any right, power or privilege preclude any other or further exercise of any other right, power or privilege.

30. BINDING ON SUCCESSORS: CLAWSON and TROY acknowledge that this Agreement shall be binding upon each of them and, to the extent permitted by law, upon their administrators, representatives, successors and all persons acting by, through, under, or in concert with them.

31. COMPLIANCE WITH EXISTING CONTRACTS: Each party acknowledges that it has reviewed all of its current or proposed contracts, including any and all

labor or union contracts with any police, fire, ambulance, EMT, animal control and communications personnel, and hereby warrants that it does not have and will not have at any time during the term of this Agreement, any other contractual agreements that will in any manner restrict, interfere with, or prohibit any police, fire, ambulance, EMT and/or animal control and communications personnel, or any other person from complying with CLAWSON'S or TROY'S obligations and duties as set forth in this Agreement.

32. NO VERBAL AMENDMENT: This Agreement, consisting of 27 pages, sets forth the entire contract and understanding between CLAWSON and TROY. This contract shall not be changed or supplemented verbally. This Agreement may be amended only by concurrent resolutions of the City Councils of CLAWSON and TROY in accordance with the procedures set forth in Paragraph 12.

33. PARAGRAPH HEADINGS: The paragraph headings to this Agreement are for convenience reference only and are not to be construed as part of this Agreement for interpretation purposes.

34. DISPUTE RESOLUTION: The parties acknowledge and agree that in the event there is a dispute regarding the implementation or interpretation of the terms of this Agreement not directly involving general orders that have been issued or mutually agreed upon pursuant to this Agreement, that dispute shall first be immediately resolved between the police chiefs of the CITY OF TROY and the CITY OF CLAWSON. In the event the dispute is not resolved, if the parties feel it necessary to do so, a suit for declaratory judgment can be filed in the Oakland County Circuit Court setting forth the particular issues to be

resolved. The parties can express in those pleadings the position each may have regarding the particular dispute. The parties do acknowledge that it is the purpose of this Agreement to fully cooperate and communicate in the resolution of any disputes that may arise between the parties and it is only as a last resort that any matters should be turned over to the Oakland County Circuit Court.

IN WITNESS WHEREOF, _____, CITY OF CLAWSON, hereby acknowledge that they have been authorized by resolution of the CLAWSON CITY COUNCIL, a certified copy of which is attached, to execute this Agreement on behalf of the CITY OF CLAWSON and hereby accept and bind the CITY OF CLAWSON to the terms and conditions of this Agreement.

CITY OF CLAWSON

WITNESSES:

BY:
MAYOR

BY:
CITY CLERK

DATED:_____

IN WITNESS WHEREOF, _____, CITY OF TROY, hereby acknowledge that they have been authorized by resolution of the TROY CITY COUNCIL, a certified copy of which is attached, to execute this Agreement on

behalf of the CITY OF TROY and hereby accept and bind the CITY OF TROY to the terms and conditions of this Agreement.

APPROVED AS TO FORM AND LEGALITY:

CITY OF TROY

WITNESSES:

BY: Louise E. Shilling
MAYOR

BY: Tonni Bartholomew
CITY CLERK

DATED: _____